

## ATTACHMENT A REMARKS

In response to the Office Action mailed on January 30, 2006, reconsideration of the rejection of claims 1, 2, 4 – 10, 12 – 20, 22, 23, 30, 31, 33 – 35, 37 – 42 and 44 – 48, in light of the amendments thereto, is respectfully requested.

**A. Rejection of Claims 1, 2, 4, 6 – 8, 10, 12 – 14, 16, 18 – 20, 22, 30 – 31, 33 – 39, 42 and 44 – 48 Under 35 U.S.C. § 103(a)**

Claims 1, 2, 4, 6 – 8, 10, 12 – 14, 16, 18 – 20, 22, 30 – 31, 33 – 39, 42 and 44 – 48 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Williams et al. (U.S. Patent No. 5,977,964) (“Williams”) in view of Herz et al. (U.S. Patent No. 6,359,661) (“Herz”), Lu et al. (U.S. Patent No. 5,771,307) (“Lu”) and Aust et al. (U.S. Patent No. 6,457,089) (“Aust”). This rejection is respectfully traversed, although the independent claims 1, 7, 13, 19, 30, 36, 37, and 45 have been amended to more clearly define over the cited references.

All of the independent claims provide for the use of audio feature recognition to determine when an additional user arrives in a viewing volume, and then controlling the display of information on a video display in the viewing volume. It will be appreciated in the preferred embodiments that the phrase “additional user” typically refers to a child or other sensitive viewer for whom adult oriented video display content would be unsuitable. Thus, it will also be appreciated that an apparatus or method for controlling the display of information based on the suitability of the information being displayed must continuously monitor the viewing volume to be able to detect when an additional user arrives in the viewing volume since it is important that the additional user be protected from unsuitable information beginning when the additional user arrives. With reference to specific content of the independent claims:

- Independent claims 1, 7 and 30 recite an apparatus for controlling access to information, including, inter alia, an audio input device for substantially continuously detecting sounds in a viewing volume, and an audio feature recognition device configured to substantially continuously process said sounds

to enable a user recognition input device to determine when an additional user arrives in the viewing volume;

- Independent claims 13, 19 and 37 recite a method for controlling access to information, including, inter alia, substantially continuously acquiring audio input signals from a viewing volume, and substantially continuously performing feature recognition on the audio input signals to determine when an additional or newly present user arrives in the viewing volume; and
- Independent claim 45 recites a device for controlling access to information, including, inter alia, means for substantially continuously acquiring audio input and means for substantially continuously performing audio feature recognition to determine when an additional user arrives in a viewing volume.

It is acknowledged in the present Office Action that Williams is silent with respect to using audio feature recognition for determining when an additional user arrives in a viewing volume. However, the Office Action points out that the Aust reference teaches a system for identifying audience members using voice recognition, wherein a member says the names of each person present in the monitored area, and suggests that this “equates” to using audio feature recognition for determining when an additional user arrives in the viewing volume.

It is agreed that the Aust reference, at column 6, lines 23 – 28, does teach that an audience member may respond to a prompt by speaking into a microphone (e.g. by saying his or her name or by saying the name of each person present in the monitored area), and that voice recognition circuitry may be used to determine who is in the audience. However, a “prompt”, as disclosed in the Aust reference, is an event that occurs at discrete times determined by the system. More specifically, the Aust reference, at column 6, lines 54 – 58, teaches that the frequency with which prompting occurs may be selected using an adaptive prompting algorithm. Preferably, the Aust system disables prompting immediately after delivering a prompting message, and waits a minimum predetermined time interval before again enabling prompting (column 6, lines 58 – 61). At column 8, lines 1 – 46, the Aust reference describes various prompting strategies for periodically prompting the audience member. For example, an initial prompting interval may be set to prompt the audience member every fifteen

minutes as to who they are and what they are watching. The information is then time stamped and stored. Fifteen minutes later, the audience member is prompted again. In contrast, the independent claims of the present application all require using audio feature recognition to determine when an additional or newly present user arrives in a viewing volume, which requires substantially continuous audio monitoring of the viewing volume.

It is important to appreciate that the Aust reference is directed to collecting periodic data from a single audience member as part of providing periodic collection of audience viewing or listening data (the patent is assigned to Nielson), and not to monitoring a viewing volume to determine when an additional or newly present user arrives in the viewing volume. Thus, it is not surprising that the Aust reference only teaches periodically prompting the audience member for data as to what is being watched and who is in the room. In any event, it is clear that Aust is only able to determine who is in the room at discrete prompting times.

Contrary to the suggestion in the Office Action, it is respectfully submitted that determining who is in the room at discrete points in time does not “equate” to determining when an additional user arrives in a viewing volume. For example, an additional user could enter and leave the room at times between the periodic prompting and this would go completely undetected. In other words, under these circumstances the system and method taught by the Aust reference would have no ability to determine even if the additional user had ever been present in the viewing volume, much less determining when the additional user arrived.

Thus, in summary, it is respectfully submitted that the Aust reference neither teaches nor suggests using audio feature recognition to determine when an additional user arrives in a viewing volume. Therefore, it is respectfully submitted that the proposed combination of Aust with the other references would not result in the present invention as claimed in independent claims 1, 7, 13, 19, 30, 36, 37, and 45, and thus, the rejection based on this combination may be properly withdrawn.

The remaining claims in the application all depend either directly or indirectly from independent claims 1, 7, 13, 19, 30, 37 and 45 and are rejected under 35 U.S.C. 103(a) as being unpatentable over various combinations of Williams, Herz, Lu, Aust,

Wachob (U.S. Patent 5,231,494), Kipust (6,002,427), and Ford (6,181,364). In this regard, it is respectfully submitted that none of Wachob, Kipust or Ford make up the deficiencies of Williams, Herz, Lu and Aust as references against the independent claims. Thus, for at least the reasons discussed above, it is respectfully suggested that the rejection of the remaining claims of the application can also be properly withdrawn.

It is respectfully urged that the instant application is in condition for allowance. However, if the Examiner believes that there are unresolved issues, the Examiner is respectfully invited to contact the Applicant's attorneys-of-record to discuss the issues.  
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